



31.05.2021

## Protesters accused of violence against representatives of the state

**Доклад на русском языке:** [Обвинения участников акций в насилии в отношении представителей власти: Как применяется статья 318 УК и в чем специфика наказаний по «митинговым» делам](#)

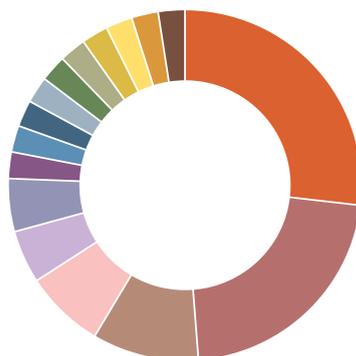
The Ministry of Internal Affairs [reported](#) that 90 criminal cases were initiated after the January-February 2021 protests in support of Alexey Navalny, against political persecution and corruption (addressed in Navalny's new investigation «Putin's Palace»), which were marked by multiple detentions. The most common charge in cases [known to OVD-Info](#) is the use of violence against a representative of the power. We are publishing data sets on all known cases under Article 318 of the Criminal Code initiated in connection with protests that took place from 2011 to 2020 and in January 2021 and comparing them with official statistics on all cases, including non-political ones. Our data show that the courts pass harsher sentences in protest-related cases: the accused are more likely to be sentenced to imprisonment and are given longer sentences and charged larger fines.

# ACCUSATIONS OF VIOLENCE IN CONNECTION WITH THE JANUARY 2021 PROTESTS

We are currently aware of 41 defendants under Article 318 of the Criminal Code prosecuted in 16 regions in connection with the January protests. Against 38 of them, charges were brought under the milder first part of Article 318 of the Criminal Code, against two — under the second part, punishable on the basis of «violence endangering the lives or health», and in one more case there is no information about which part of the Article was applied. At least 17 people are in custody and at least two are under house arrest. At least 18 people pleaded guilty. In one case the sentence has already been passed: a resident of Kostroma who pleaded guilty and agreed to be tried without evidence **was sentenced** to one and a half years of forced labour.

## GEOGRAPHY OF CASES UNDER ARTICLE 318 OF THE CRIMINAL CODE

after the protests on January 23 and 31, 2021



Moscow St Petersburg Kaluga Vladivostok Ekaterinburg Krasnoyarsk  
 Vladimir Kostroma Kursk Lipetsk Nizhny Novgorod Pskov Samara  
 Stavropol Ulyanovsk Yaroslavl

[Data from OVD-info](#)

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The details of many cases are still unknown to us. Most times, we have no access to the materials. In addition, many of the accused have pleaded guilty and it is possible that their cases, as in the case described above, will be considered in court without examining the evidence.

Why do the authorities need mass initiation of cases under Article 318 of the Criminal Code? By accusing protesters of violence, they attempt to affirm the legality of their own actions — the forceful dispersals, the use of violence by law enforcement agencies, and the persecution of protesters. However, even individual episodes of aggression on the part of protesters is not a reason for declaring the entire protest non-peaceful and suppressing it — on the contrary, the

testimonies of eyewitnesses clearly confirm the peaceful nature of the protests. All episodes of violence by protesters **should be considered** in the context of the fact that due to coronavirus restrictions in many regions of Russia, it is impossible to hold a coordinated protest rally. The presumed organizers of the protests and in general, any notable activists in many cities are massively persecuted even before the events themselves, and law enforcement officers use disproportionate and unprovoked violence against peaceful protesters.

In at least one instance, accusations under Article 318 of the Criminal Code were brought against a participant of the protest most likely in response to his own complaint of police brutality. Eldar Garipov, a resident of St Petersburg who participated in the protest on January 31, told the district police officer about his injury. The latter promised to transfer the material to the Investigative Committee. According to a lawyer working with OVD-Info, it is not known what happened next with this material, but after the conversation, a criminal case was initiated against Garipov himself.

## **ARTICLE 318 OF THE CRIMINAL CODE: THE SCALE OF APPLICATION**

Article 318 of the Criminal Code provides for liability for the use of violence against a representative of the power or his relatives, as well as for a threat of violence. The wording of the Article has not changed since 2011. The Article consists of two parts: 1) the use of non-dangerous violence or the threat of violence, and 2) the use of violence that is dangerous to life or health. Under the Part 1, imprisonment for up to five years is possible. Part 2 provides for imprisonment for up to ten years.

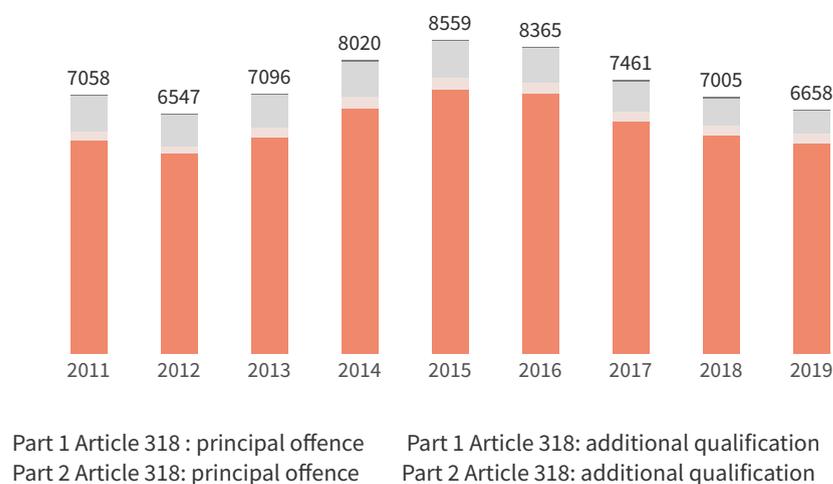
The severity of damage to health is determined by means of forensic medical examination. "In order for an expert to

assess violence as not endangering life and health, the victim (or the person claiming to be a victim) need not have objective signs of violence – bruises, abrasions or scratches. It is enough, for example, to complain about pain," says the 2019 report of Apologia Protesta on violence at protests. It is the findings of such an examination and the testimony of the victim that form grounds for charges, as a result, evidence under the first part of Article 318 of the Criminal Code is easy to falsify and difficult to verify.

Russian courts annually consider thousands of cases under Article 318 of the Criminal Code. According to the data of the Judicial Department at the Supreme Court processed within the scope of [project Dostoevsky.io](https://dostoevsky.io), from 2011 to 2019, the courts found 58,703 people guilty under the first part and 8,066 people guilty under the second part of Article 318.

ОВД-Инфо

### TOTAL NUMBER OF INDIVIDUALS SENTENCED UNDER ARTICLE 318 OF THE CRIMINAL CODE in 2011-2019



Data from the Judicial Department at the Supreme Court processed for Dostoevsky.io

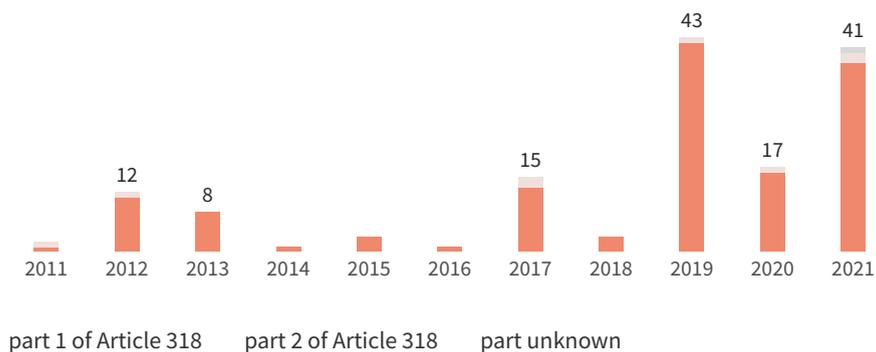
According to OVD-Info, at least 88 people in 2011-2019 and at least 17 in 2020 were charged with using violence against representatives of the power in connection with protests in Russia. As a rule, these accusations referred to Part 1 of Article 318 of the Criminal Code – violence that does not endanger human life or health. Only 6 people were charged under Part 2 of the Article.

On 89 people (63 in 2011-2019 and 26 in 2020) courts of first instance ruled as follows: 87 - guilty, 2 - compulsory hospitalization. Persecution of 6 people was terminated before the trial, the other cases we are aware of have not been reviewed yet.

The number of people prosecuted under this article increased in 2012, 2017 and 2019-2020.

- In 2012, most of the cases were associated with confrontations at Bolotnaya Square on 6 May 2012, where an approved rally related to the inauguration of Vladimir Putin was supposed to take place.
- In 2017, several regions brought charges against participants of countrywide anti-corruption protests organised by the staff of Alexey Navalny under a shared slogan - He Is Not Dimon to You (March 26 - named after a film about property owned by Dmitry Medvedev who was the Prime Minister at the time) and We Want Answers (June 12).
- Most of the cases in 2019 and 2020 were against the participants of protests in Magas (Ingushetia) against giving land to Chechnya, that were dispersed. 2019 was also the year when charges were filed against those who protested in Moscow when opposition candidates were not allowed to participate in the elections to the City Duma.
- In 2020, another large-scale case was initiated because of the rally in Vladikavkaz against restrictions imposed due to the coronavirus pandemic. OVD-Info is aware of three individuals charged with offences under Article 318 in this case. However, we wouldn't rule out the possibility that there are a lot more of those. Due to the scarcity and inaccuracy of information about this case, we did not include related figures in our statistics.

## PROSECUTION UNDER ARTICLE 318 OF THE CRIMINAL CODE IN CONNECTION WITH PROTESTS from 2011 to 2020\*



[PolitPressing.Org](https://politpressing.org)

\*In 2021, we are talking only about January and February. The year is determined by the date of initiation of the criminal case; it may be reviewed in court later on. The year is determined by the date of initiation of the criminal case; it may be reviewed in court later on.

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In some cases, Article 318 was applied along with other charges. All those accused under this article within the scope of the Bolotnaya Square case were simultaneously accused of participation in mass riots (Article 212 of the Criminal Code). There were also cases initiated under those two articles against some of the participants of the June 23, 2019 protest related to the elections to the Moscow City Duma, but then, the cases under Article 318 were considered separately, and the cases under the Article 212 did not reach a trial. In total, during the period under review, there were 26 people against whom cases in connection with protests were initiated not only under Article 318 (for six of them, cases under 318 were considered separately).

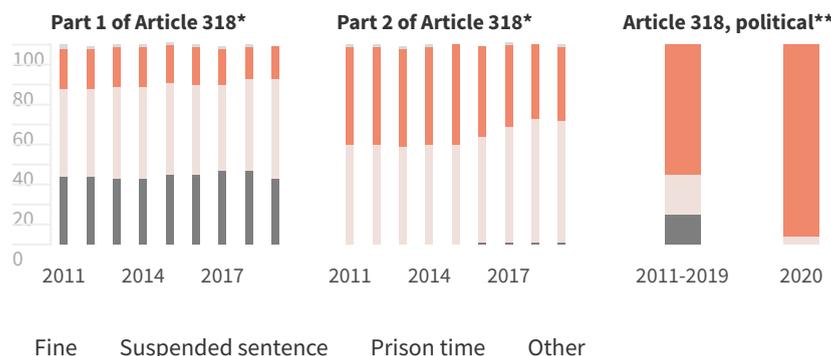
# **PUNISHMENT UNDER CASES OF VIOLENCE AGAINST REPRESENTATIVES OF THE POWER**

The most common penalties for the principal offence under Article 318 in 2011-2019 were a suspended sentence (44-50% each year) and a fine (33-37%). Real jail time is normally rarer, comprising 16-20% of annual sentences.

However, the overwhelming majority of court decisions under Article 318 on protest-related cases involve real imprisonment. From 2011 to 2019, according to OVD-Info, there are 44 such decisions out of 63 (70%), in 2020 - 25 out of 26. If we take only decisions on the most common first part of Article 318 of the Criminal Code and cases where it was the only article applied, then for 2011-2019 the share of sentences with real jail time was 65% (26 out of 40), in 2020 - 98% (25 out of 26).

## DISTRIBUTION OF PENALTIES UNDER ARTICLE 318 OF THE CRIMINAL CODE

2011-2019



[Data of the Judicial Department at the Supreme Court processed by the Dostoevsky.io project, PolitPressing.Org](#)

\* Punishments are shown for the principal offence, subsidiary offences were not taken into account \*\* Only those protest-related cases were taken into account where charges were brought only under Article 318 of the Criminal Code

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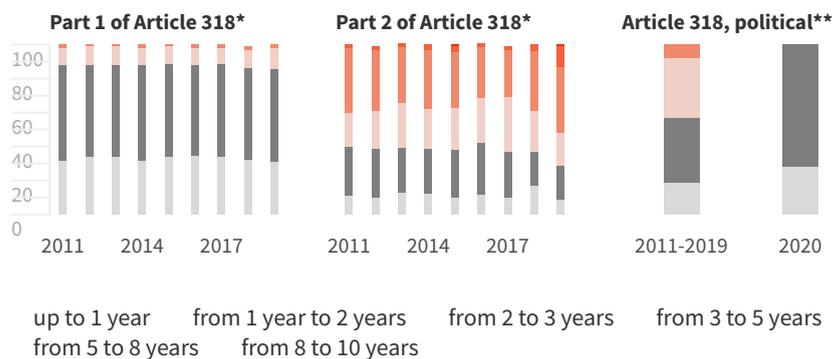
In one case a suspended sentence was replaced with real imprisonment two years after judgment. It was the case of The Other Russia activist Yuri Staroverov who received a suspended sentence of three years on charges of use of violence against a riot police officer during the protest dispersal in Nizhny Novgorod in 2012. According to the court's decision in 2016, Yuri was sent to a general regime colony because the Center for Extremism Prevention discovered his administrative offences. **In his associates' opinion**, these administrative charges were brought on purpose, in order to change Staroverov's punishment. In the case of protests in Ingushetia some of the people involved appealed against their sentences, but as a result either their prison terms were extended, or colony settlement was

changed to general regime colony or both. In one case as a result of retrial, the term was cut, but the place of serving the sentence became more severe: a year and a half in colony settlement were substituted by a year and a month in a general regime colony for Mustafa Vishegurov.

There is only one known case where real prison time was substituted with a suspended sentence following an appeal in a protest-related case on violence against representatives of the power: due to a public uproar in 2019, three and a half years of general regime colony was substituted with a one-year suspended sentence for Pavel Ustinov, who was considered involved in dislocating Rosgvardiya officer's shoulder at a protest against the rejection of opposition candidates to Moscow City Duma on August 3. Shortly before this report was published, the conviction on a scandalous 2018 case was overturned: Krasnodar advocate Mikhail Benyash who arrived at the police station to protect detainees who protested against the pension reform was accused of assaulting police officers and fined 30 thousand roubles. The case was sent to retrial.

## DISTRIBUTION OF TERMS OF IMPRISONMENT UNDER ARTICLE 318 OF THE CRIMINAL CODE

From 2011 to 2019



[Data of the Judicial Department at the Supreme Court processed within the scope of the Dostoevsky.io project, PolitPressing.Org](#)

\* Punishments are shown for the principal offence, subsidiary offences were not taken into account \*\* Only those protest-related cases were taken into account where charges were brought only under Article. 318 of the Criminal Code.

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There is also a difference in terms of imprisonment in non-political cases. Though the first part of Article 318 of the Criminal Code provides for penalties of up to five years, the most common terms are up to two years (86-89%). The second part provides for up to ten years, but in practice, the term rarely exceeds five years.

In protest-related cases, the courts give longer terms of imprisonment. Among cases where non-dangerous violence against a representative of the authorities was the only accusation, only 57% were sentenced to up to two years in 2011-2019, in the other cases the terms were longer.

For six cases that ended in fines the average amount was 85 thousand roubles with a minimum of 30 thousand. It is a

bigger amount than for all cases under Part 1 of Article 318, where in 2011-2019 63% of fines were less than 25 thousand roubles. In 2018-2019 the average fine was approximately 30 thousand roubles.

By law, a public event itself doesn't create any context that should be treated as a special aggravating circumstance by the courts. On the other hand, the illegality or amorality of the victim's behaviour, which served as a pretext for the crime, is a mitigating circumstance.

## **CONCLUSION**

To sum up, we would like to reiterate the reasons why new cases under Article 318 of the Criminal Code require special public attention:

- The actions that served as a basis for the initiation of the cases took place in the context of massive police violence. The January 2021 protests were brutally and groundlessly **suppressed** by law enforcement agencies. The latter are responsible for violent dispersal of protesters, unlawful mass detentions, unjustified use of force against protesters and bystanders.
- The authorities defiantly refuse to admit violations by law enforcement agencies. **According to TASS**, the press secretary of the President of the Russian Federation Dmitry Peskov, commenting on the events of January 23, urged not to draw a parallel between the absence of cases against the police and the detention of the participants in illegal protests because law enforcement officers “didn’t participate in an unauthorized rally”, but “were doing their job, trying to save the city from these aggressive youngsters”. “There were quite a large number of hooligans, provocateurs who showed more or less aggressive behavior towards law enforcement officials, which is unacceptable, — **explained** Peskov what was going on at the January 31 rally. — Therefore, the police naturally take action”. “With rare exception these people, very respectable citizens of our country, were acting professionally, courageously, skillfully, with dignity and honor, protecting the safety of people, defending the legality and independence of our homeland. — the State Duma deputy **commented** on the actions of the security forces. — I am sure that the parliament is obligated to thank them”.

- Despite the large number of registered cases of violence against protesters by law enforcement officers, at the moment the initiation of only one criminal case is known — deliberate infliction of minor harm to health (Part 2 of Article 115 of the Criminal Code) due to an incident that occurred with one of the protester on January 31. However, according a lawyer working with OVD-Info, the defendant in the case initiated by the Ministry of Internal Affairs is not a law enforcement officer but a certain “unidentified person” who used a weapon. Over the past ten years, only one case of initiation of proceedings in connection with the use of violence against protesters by the police is known to us: against policeman Vadim Boyko who hit a protester with a baton on July 31, 2010 in St Petersburg and **received** a suspended sentence of 3.5 years for abuse of office in the summer of 2011.
- The refusal to initiate cases against law enforcement officers who use force during the dispersal of protests and detentions is a systemic problem which manifests itself not only in protest-related cases. “A typical reaction to the statements of those who have suffered from the violence of law-enforcement officers is refusal to initiate criminal proceedings after “routine” inspections, procedural run-arounds and red tape — **note** the authors of the Apologia Protesta report. — There is also a risk that after a statement about the use of violence by law-enforcement officers a criminal case will be initiated against the applicant himself”. (See the case of Eldar Garipov above. Similar cases happened before.)

- Convictions under Article 318 of the Criminal Code are discriminatory against protesters: they are more often sentenced to real imprisonment, and the terms of imprisonment are longer. In the beginning of 2020, Novaya Gazeta journalists analyzed the texts of 12 thousand sentences under this article and **concluded** that “sober protesters with no priors who are accused of using violence against representatives of the power are more likely to be sentenced to real jail time than a drunken rowdy with a criminal record who fought off the police”. Official judicial statistics confirm that punishments for the use of violence against a representative of the power in protest-related cases under Article 318 of the Criminal Code are more severe than usual.
- The European Court of Human Rights has recognized violations of the right to a fair trial and the right to freedom of assembly in connection with the prosecution of protesters under Article 318 of the Criminal Code (for example, in a number of cases from the Belousov and Others v. Russia group).

## **ANNEX (IN RUSSIAN)**

### **1. Defendants in cases under Article 318 of the Criminal Code in connection with protests held on January 23 and 31, 2021.**

Information is up-to-date as of February 25.

Source: OVD-Info data and open sources.

<input type="checkbox"/>	Имя	Статьи	Реги
ДАТА АКЦИИ			
▼	<b>2021-01-23</b>	31	
1	Тимофеенко Виталий Николаевич	ст. 318 ч.2 УК РФ	Вла
2	Жуков Артем	ст. 318 ч.1 УК РФ	Кал
3	Лагуткин Владислав	ст. 318 ч.1 УК РФ	Кал
4	Лукьянов Алексей	ст. 318 ч.1 УК РФ	Кал
5	Неизвестный 34	ст. 318 ч.1 УК РФ	Кал
41 records			
		<a href="#">Download CSV</a>	<a href="#">View larger version</a>
<a href="#">Открыть таблицу / Open table</a>			

## 2. Defendants in cases under Article 318 of the Criminal Code in connection with protests, tried from 2011 to 2020.

Information is up-to-date as of February 25.

Data on cases deemed to be politically motivated is collected as part of the PolitPressing.org project. [More about methodology.](#)

<input type="checkbox"/>	Имя	год начала...	Статьи УК	регион..
ГОД РЕШЕНИЯ				
▼	<b>2020</b>	26	▼ Sum 52502	
1	Бапхоев Закри	2020	ч. 1 ст. 318 УК	Респуб.
2	Камурзоев Хамзат	2020	ч. 1 ст. 318 УК	Респуб.
3	Маматов Мухарбек	2020	ч. 1 ст. 318 УК	Респуб.
4	Чаккиев Ахмед	2020	ч. 1 ст. 318 УК	Респуб.
5	Батыгов Макшарип	2020	ч. 1 ст. 318 УК	Респуб.
89 records			Sum 179510	
		<a href="#">Download CSV</a>	<a href="#">View larger version</a>	
<a href="#">Открыть таблицу / Open table</a>				

